IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 31ST JULY 2007 / 9TH SRAVANA 1929

WP(C).No. 23368 of 2007(F)

PETITIONER:

K.J. JOSEPH,
EX. MANAGING PARTNER OF M/S. IDEAL EXPORTS PVT.LTD
MUHAMMA, RESIDING AT KUNNAPPALLY GARDENS, MUHAMMA,
ALAPPUZHA.

BY ADV. SRI.JOSHI N.THOMAS

RESPONDENTS:
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1. **APPELLATE TRIBUNAL FOR FOREIGN EXCHANGE,**
   IVTH FLOOR, JANPATH BHAVAN, NEW DELHI-110 001,
   REPRESENTED BY ITS REGISTRAR.

2. **THE DEPUTY DIRECTOR OF ENFORCEMENT,**
   ENFORCEMENT DIRECTORATE, FEMA, SHASTRI BHAVAN,
   3RD FLOOR, 26 HADDOWS ROAD, CHENNAI-6.

3. **THE DEPUTY TAHSILDAR (RR), CHERTHALAI.**

4. **THE VILLAGE OFFICER,**
   THANNEERMUKKAM SOUTH, CHERTHALAI TALUK.

BY GOVERNMENT PLEADER SRI.I.V.PRAMOD
SRI. P.PARAMESWARAN NAIR,(ASST. SOLICITOR)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 31/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S.SIRI JAGAN,J

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W.P.(C).No.23368 of 2007

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Dated this the 31st day of July 2007

JUDGMENT

Heard parties. The petitioner's grievance is that without issuing final order in Appeal No.603/2005 to the petitioner. Respondents 3 and 4 are seeking to recover amount disputed in the appeal, by issuing Ext.P5 recovery proceedings. The petitioner therefore, seeks the following reliefs.

> "i) issue a writ of mandamus, order or direction commanding the 1st respondent Tribunal to supply final order in Appeal No.603 of 2005 to the petitioner or his counsel forthwith;
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> ii) issue a writ of mandamus, order or direction commanding the respondents 3 and 4 not to proceed with Ext.P5 recovery proceedings till the period prescribed under Section 35 of the FEMA, 1999 for filing appeal against the order of Ist respondent Tribunal before this Honourable Court;
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> iii)stay Ext.P5 revenue recovery proceedings pending disposal of this writ petition."

I have heard the learned Counsel for the petitioner the learned Assistant Solicitor General and the learned Government Pleader appearing for the respondents 3 and 4. I am satisfied that the petitioner is entitled to get a copy of the order in

Appeal No.603/2005 if it has not already been issued to the petitioner. Therefore, there would be a direction to the first respondent to issue a certified copy of the order in Appeal No.603/2005 to the petitioner or his counsel expeditiously. However, this would be subject to the contention of the respondents that an order has already been issued, if it has actually been so issued earlier. Till certified copy of the order is issued to the petitioner and 7 days thereafter further proceedings pursuant to Ext.P5 shall be kept in abeyance to enable the petitioner to workout his remedies against that order.

The writ petition is disposed of as above.

S.SIRI JAGAN, JUDGE

dvs